

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

PURNELL WILLIAMS and ANGELA
WILLIAMS,

Plaintiffs,

v.

CHRISTOPHER SHORT,

Defendant.

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1:23-CV-1069-RP

ORDER

Before the Court is the report and recommendation from United States Magistrate Judge Dustin Howell concerning Plaintiffs Purnell Williams and Angela Williams’s (“Plaintiffs”) complaint pursuant to 28 U.S.C. § 1915(e). (R. & R., Dkt. 5). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Howell issued his report and recommendation on October 3, 2023. (*Id.*). Plaintiffs received a copy of the report and recommendations no later than October 28, 2023. (Dkt. 7). As of the date of this order, Plaintiffs have not filed objections to the report and recommendation.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge’s proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. When no objections are timely filed, a district court can review the magistrate’s report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee’s note (“When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

Because Plaintiffs have not filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and

adopts the report and recommendation as its own order. Plaintiffs also file a motion for leave to amend their complaint to assert a common law negligence claim against Defendant Short. (Mot. Leave, Dkt. 4). Although the federal rules permit a party to amend once as of right, Plaintiffs have attached no amended complaint. Fed. R. Civ. P. 15(a)(1). As such, the Court is unable to rule on the motion to amend.

Accordingly, the Court **ORDERS** that the report and recommendation of the United States Magistrate Judge, (Dkt. 5), is **ADOPTED**. Plaintiffs' oath of office, abuse of office/official capacity, common law fraud, and § 1983 claims related to Plaintiffs' Fourth and Fourteenth Amendment rights against Detective Short are **DISMISSED WITH PREJUDICE**. Plaintiffs' motion for leave to amend, (Dkt. 4), is **DENIED WITHOUT PREJUDICE** to refile with an amended complaint within 14 days of the date of receipt of this order.

Pursuant to the report and recommendation, Plaintiffs are warned that filing or pursuing any further frivolous lawsuits may result in (a) the imposition of court costs pursuant to Section 1915(f); (b) the imposition of significant monetary sanctions pursuant to Fed. R. Civ. P. 11; (c) the imposition of an order barring Plaintiffs from filing any lawsuits in this Court without first obtaining the permission from a District Judge of this Court or a Circuit Judge of the Fifth Circuit; or (d) the imposition of an order imposing some combination of these sanctions.

IT IS FINALLY ORDERED that the Clerk's Office mail a copy of this Order to Plaintiffs via certified mail.

SIGNED on November 28, 2023.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE